

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 12.11.301 pertaining to) PROPOSED AMENDMENT
personal flotation devices)

TO: All Concerned Persons

1. On February 24, 2020, at 6:00 p.m., the Department of Fish, Wildlife and Parks (department) will hold a public hearing at the Fish, Wildlife and Parks Headquarters Building, 1420 E. 6th Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than February 14, 2020, to advise us of the nature of the accommodation that you need. Please contact Jessica Snyder, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; telephone (406) 444-9785; or e-mail jesssnyder@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

12.11.301 PERSONAL FLOTATION DEVICES AND LIFE PRESERVERS

~~(1) The following are requirements for personal flotation devices and life preservers upon motorboats and vessels launched upon the waters of this state:~~

~~(a) all recreational boats, and canoes and kayaks of any length must have one type I, II, or III device (of a suitable size) aboard for each person;~~

~~(b) a type V device may be substituted for types I, II, III when properly worn on the person at all times while the vessel is in operation;~~

(1) Wearable U.S. Coast Guard approved personal flotation devices must be readily accessible to all persons on the vessel.

~~(c) (2) All recreational boats vessels 16 feet in length and over, in addition to the above, must have one U.S. Coast Guard approved throwable type IV device~~
personal flotation device (seat cushion with handles or ring buoy); that is immediately available for use.

(3) Personal flotation devices are required to be securely worn when operating a sailboard if:

(a) the person operating the sailboard is 14 years of age or younger; or

(b) two or more people are occupying the sailboard.

~~(d) type I, II, and III devices shall be readily accessible to all persons on board; the type IV device shall be immediately available for use.~~

~~(2) The following are requirements for sailboards used on waters of this state:~~

~~(a) if two or more persons are occupying a sailboard, each occupant must have a coast guard approved life preserver securely fastened to his person;~~

~~(b) a person operating a sailboard (windsurfer), who has not reached his 15th birthday, must have a coast guard approved life preserver securely fastened to his person.~~

~~(3) The amendment to (1)(a) of this rule, requiring all boats to carry personal flotation devices, is effective May 1, 1996.~~

AUTH: 23-2-521, ~~87-1-301, 87-1-303~~, MCA

IMP: 23-2-521, MCA

REASON: The department is proposing amendments to ARM 12.11.301 to remove language that is statute and clarify language within the rule including incorporating the U.S. Coast Guard's new labeling standards for personal flotation devices. The U.S. Coast Guard is transitioning from labeling personal floatation devices as "types" and instead will be using icons to indicate the level of buoyancy and activity use. The proposed amendments will permit recreationists to use any U.S. Coast Guard approved personal floatation device regardless of the label if it is still in working condition.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Phil Kilbreath, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; or e-mail pkilbreath@mt.gov, and must be received by February 28, 2020.

5. Jessica Snyder or another person appointed by the department has been designated to preside over and conduct this hearing.

6. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be made by completing the request form at any rules hearing held by the department.

7. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

8. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Zach Zipfel
Zach Zipfel
Rule Reviewer

/s/ Martha Williams
Martha Williams
Director
Department of Fish, Wildlife and Parks

Certified to the Secretary of State January 21, 2020.